

NAVSO P-3674



**COMMANDING
OFFICER'S
GUIDE
TO THE
FEDERAL
EMPLOYEES'
COMPENSATION
ACT
PROGRAM**

NAVY DEPARTMENT

S/N 0515-LP-206-2300





DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

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From: Chief of Naval Operations

Subj: COMMANDING OFFICERS'S GUIDE TO THE FEDERAL EMPLOYEES'
COMPENSATION ACT PROGRAM

1. This guide is published to support commanding officers and activity heads in providing leadership and direction to the Federal Employees' Compensation Act (FECA) Program. It conveys my personal views on the importance of managing the FECA Program effectively, describes Chief of Naval Operations actions in support of the program, and discusses program management actions expected of commanding officers and activity heads. It also contains a brief description of program areas which should be the focus for management planning.

2. I request that every commanding officer and activity head read this guide, become personally involved in the management of the program, and ensure that the FECA management team does its part to support the program.

3. We wish to thank the following commands for providing assistance in planning and developing the guide:

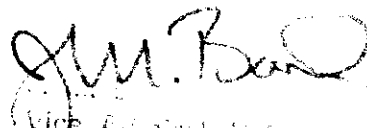
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COMMANDING OFFICER'S GUIDE TO
THE FEDERAL EMPLOYEES' COMPENSATION ACT PROGRAM

EXECUTIVE SUMMARY

1. The Deputy Chief of Naval Operations (Manpower, Personnel and Training) is personally concerned about management of the Federal Employees' Compensation Act (FECA) Program for two reasons:

a. Civilian employees are essential to the Navy's mission accomplishment and are not easily replaceable. When employees are injured, the Navy has a responsibility to provide care and compensation and to return them to productive work. If employees are permanently disabled, the Navy is committed to paying compensation for life.

b. Injury compensation costs are rising. Beginning in FY-90 these costs are being billed to the individual activities where the claims originated, and where the FECA program can best be managed and costs controlled.

2. OPNAV Instruction 12810.1 establishes program management policy and administrative responsibilities. Commanding officers are responsible for management of the program. Civilian personnel officers provide primary administrative assistance and coordination among line managers, occupational safety and health managers, the injury compensation program administrator, and other members of the management team. Quarterly reports of claims and summary reports provide the information necessary for management of the program. Positive pay-offs for good management include higher productivity, improved morale, and reduced costs.

3. Commanding Officers should take the following actions:

- a. Assess status of the program.
- b. Establish performance goals and a high level work group.
- c. Issue policy statement.
- d. Facilitate communication.
- e. Hold responsible officials accountable.
- f. Provide training.
- g. Distribute FECA costs to appropriate cost centers.
- h. Provide necessary resources for program management.
- i. Keep track of progress.

4. Actions should focus on prevention of injuries, reduction of long-term compensation costs, aggressive management of new claims, and training. Preventive actions include providing supervisors information on physical limitations identified in preemployment physical examinations, teaching and enforcing safe work practices, and developing programs to prevent common types of injuries. Reduction of long-term costs requires review of compensation rolls to identify candidates for return to work, and offering jobs within physical limitations. New claims management includes providing initial care, documenting and processing claims properly, coordinating with medical providers, controverting inappropriate claims, identifying fraud and abuse, and establishing a light duty program to retain employees during recovery and reemploy within their physical limitations. Training of managers and employees is also critical.

COMMANDING OFFICER'S GUIDE TO
THE FEDERAL EMPLOYEES' COMPENSATION ACT PROGRAM

A MESSAGE FROM THE DEPUTY CHIEF OF NAVAL OPERATIONS
(MANPOWER, PERSONNEL AND TRAINING)
TO COMMANDING OFFICERS AND HEADS OF ACTIVITIES

WHY I AM CONCERNED ABOUT MANAGEMENT OF THIS PROGRAM

I am personally concerned about management of the Navy's Federal Employees' Compensation Act (FECA) Program for two reasons:

a. Civilian employees are essential to the Navy's mission.

I value our civilians and want to be sure we treat them fairly. The Navy has a skilled civilian work force, not easily replaceable, and is facing manpower reductions. We must retain as many of our employees as possible, and fully utilize their skills.

We must maintain safe working conditions to protect our employees and maintain production. When employees are injured we have a commitment to provide care and compensation during rehabilitation, and to return them to productive work as soon as possible. If they are permanently disabled we are committed to paying them compensation for life. These are responsible commitments to our employees. We do no less for our military personnel. The FECA Program is the sole remedy of civilian employees against the United States for work-related injury or death. It is both a good business practice and an employee benefit. It avoids the expense and delay of lawsuits.

b. Injury compensation costs are rising.

Our latest Navy compensation bill, to be paid from FY 91 funds to cover costs incurred in the FECA benefit year ending in June 1989, is over \$198 million, a 9 percent increase from the previous year. The medical expense portion increased 14 percent from the previous year. Compensation dollars increased 7.8 percent, while death benefits for survivors increased 7.2 percent over the 1988 benefit year.

While we pay the injured employee compensation, we must pay a second person to get one job done. This is inefficient and costly.

As the number of employees on long-term compensation increases, our compensation payroll becomes a greater portion of our human resources cost. We create a lifetime shadow work force which cannot be adjusted as workload changes, adding to overhead costs but not to productive effort. When reductions in the on-board work force become necessary the shadow work force becomes an even greater portion of our human resources, not subject to the normal processes of turnover and retirement.

The amount of compensation for an individual employee and death benefits for an employee's survivors are adjusted each year as the cost of living increases. Medical costs for disabled and injured employees are not adjusted annually, but, as we all know, medical costs are rising faster than most other costs of living.

Some long-term claimants have not been contacted personally either by us or by the Department of Labor Office of Workers' Compensation Programs (OWCP) for many years, and we have no recent medical report on their condition. We do not know whether they may be sufficiently recovered or rehabilitated to return to work.

The Department of Defense Comptroller recognized the importance of focusing management attention on FECA costs. Beginning in FY'90, FECA costs are being billed to individual activities. These costs were previously paid centrally in Navy. Because of the new billing policy, you have an added incentive to manage the program aggressively and seize control of these costs.

WHAT I HAVE DONE TO IMPROVE MANAGEMENT OF THIS PROGRAM

I have issued OPNAV Instruction 12810.1 establishing Chief of Naval Operations policy and assigning responsibilities at all levels. One problem with administration of the program has been the lack of clear leadership. This has been fixed: it is my program, and it is your program. You must provide the leadership and coordination required for effective management in your command or activity, working with your line managers and civilian personnel officer to implement the program in close coordination with the occupational safety and health program manager.

I am issuing this guide to you. It identifies multiple actions which will improve your management of the program in your command or activity.

I support the Department of Defense Comptroller's decision to charge back costs to your level, where claims originate and where they must be administered. Only individual attention to each claim will produce results. Only you can assure that attention.

I am providing oversight of production and distribution of the quarterly OWCP compensation rolls and summary reports, so that you will have the management information necessary to provide direction to the program at your Command or activity.

I fully support the Navy Inspector General's decision to review the FECA Program during all occupational safety and health inspections.

WHY YOU SHOULD BE CONCERNED ABOUT EFFECTIVE MANAGEMENT
OF THIS PROGRAM

You are driven by the same forces that I am: you need to use civilian employees to accomplish your mission, and you need to control costs.

There are positive payoffs for good management of the FECA Program:

- a. Improve safety and you lower the lost time injury rate.
- b. Lower the lost time injury rate and you raise morale.
- c. Raise morale and you boost production; cut costs.
- d. Bring people back to work and you reduce your shadow work force costs and the cost of production.
- e. Retain injured employees in productive assignments during rehabilitation and you reduce overhead compensation costs.
- f. Offer rehabilitated workers jobs within their physical limitations and reduce or eliminate lifetime compensation costs.
- g. Maintain concerned contact with injured employees and they will return to work sooner, reducing continuation of pay and/or compensation costs while improving employee morale.
- h. Controvert claims which appear unwarranted, and identify and deal with fraud and abuse, and you establish the integrity of the claims process.
- i. Eliminate erroneous claims from command or activity rolls and you reduce chargeback costs you must pay.

WHAT YOU SHOULD DO

I strongly encourage you to focus your personal attention on FECA Program management actions which have been proven to be effective.

a. Assess the status of your program. Ask the right questions. You need to identify actions which will have the greatest pay-off for you. You need to understand your costs, claimants, injury rates, resources, your reemployment record, and claims review processes. Some of the questions you should be asking are:

- (1) What is your compensation bill?
- (2) What is the average cost per claim?
- (3) Average cost per on-board employee?
- (4) Average cost of continuation of pay?
- (5) Where are you incurring your primary FECA costs?
- (6) What have been the trends over the last 3 years?
- (7) How many claims do you have each year?
- (8) How many claims do you controvert?
- (9) How many cases of fraud and abuse have you discovered?
- (10) How many are on your compensation rolls?
- (11) Ratio of persons on the rolls to your on-board work force?
- (12) Average age of claimant?
- (13) Average age of on-board work force?
- (14) Average length of time on compensation rolls?
- (15) What proportion on the rolls have long term injuries?
- (16) What is the injury rate per 100 employees?
- (17) What kind of injuries are most common?
- (18) What are the most dangerous locations?

- (19) How many have you reemployed from the compensation rolls?
- (20) What efforts are being made to reemploy more from the rolls?
- (21) How many employees are on light duty assignments?
- (22) What is the ratio of light duty assignments to the on-board work force?
- (23) What resources are currently devoted to the program?
- (24) What resources are devoted to reviewing chargeback costs?
- (25) Are your civilian personnel officer and occupational health and safety manager working together on FECA?
- (26) Are your managers and supervisors actively involved in maintaining contact with injured employees?
- (27) What training are your program managers, line managers, and employees receiving?

b. Establish goals for program performance and a high level work group to identify action items. Use the answers to the questions to establish a base line for the program, to identify problems in your Command or activity, and to set the direction for action. If your costs exceed a million dollars annually, establish a high level task force or cost containment committee to help you review the data on the program, to identify problems, and to recommend actions. The group should provide continuing review of injury reports, program status, and hiring decisions.

c. Issue a clear policy statement on the program. Assign lead responsibility for administration support to your civilian personnel officer. Include your policy on light duty assignments and return to work program. Consider a requirement for higher level review of any decision not to rehire a person from the compensation rolls.

d. Facilitate communication. Establish close working relationships among all responsible officials within your command. Meet personally with every member of your FECA team, and assure them of personal access to you to discuss any situations which may require your guidance or intervention. In addition to your key line managers, the team includes the Civilian Personnel Director, Injury Compensation Program Administrator (ICPA), Occupational Safety and Health (OSH)

Manager, Comptroller, Occupational Health Physician and/or Nurse, Security Officer, Staffing Specialists, and Handicapped Program Coordinator. You may want to extend your contacts to major medical providers in the community as well as the District Director of the Office of Workers' Compensation Programs.

e. Hold responsible officials accountable. Set goals and expectations for your managers. Publicize and reward accomplishments. Provide financial or other incentives for managers who bring people back to work from the compensation rolls.

f. Provide training to all members of the FECA team and to employees.

g. Distribute FECA costs to the cost centers within your Command or activity in a manner similar to that used for Manage-to-Payroll cost centers.

h. Provide necessary resources for effective program management: staff, computer systems, investigators, in-house or contract medical support.

i. Keep track of progress. Give the program your ongoing attention and leadership.

IF YOU NEED MORE INFORMATION, READ ON!

The remainder of this guide provides a general discussion of proven approaches to managing the FECA Program and controlling costs. A bibliography is included at the end.

IDEAS TO HELP YOU MANAGE FEDERAL EMPLOYEES' COMPENSATION ACT COSTS

Your efforts to manage costs should focus on four areas which have been proven to be critical in reducing FECA costs:

- a. Prevention of injuries;
- b. Reduction of long-term compensation costs;
- c. Aggressive management of new claims; and
- d. Training.

Prevention of injuries

Injuries can be prevented. Prevention of injuries is a joint effort of your line managers and first line supervisors, your Occupational Safety and Health (OSH) Manager, your civilian personnel office and your employees. You must provide the leadership and backing for their efforts.

Your civilian personnel office must provide information from preemployment physical examinations to first line supervisors, so that they will be aware of any preexisting physical limitations which must be considered in assigning work to new employees.

Safe practices in the work place must be taught and enforced by first line supervisors, with the clear support of line managers. Safety equipment must be utilized. Employees must be knowledgeable of safety rules and disciplined for any infractions. The OSH Manager is a facilitator and can provide assistance, publicity, training and analysis, but the responsibility for safety rests with supervisors and employees. Line managers should expect and recognize good safety records among the groups and individuals in their charge.

Common causes and locations of injuries should be identified and analyzed, and preventive programs undertaken. The OSH manager and your cost containment committee should work together to plan actions to prevent and reduce common injuries and to increase safety at locations where accident rates are high.

Reduction of long-term compensation costs

You can reduce your long-term compensation costs by reducing the number of claimants on the compensation rolls and/or by reducing amount of compensation for a particular claimant. How can you remove claimants from the rolls? By aggressive review of chargeback claims to identify appropriateness of benefits,

erroneous charges/overpayments, and claimants with potential for reemployment or rehabilitation. By making job offers within claimants' physical limitations and at their former salaries as adjusted for any pay increases they would have been entitled to. Compensation can be reduced by making job offers within physical limitations at salaries below claimants' former salaries as adjusted, and by rehabilitation. Remember, you are already paying a second person to do the same job, and your shadow work force is there for life unless you take action.

If it's that simple, why hasn't it been done already? There are two reasons: the Office of Workers' Compensation Programs does not have the resources to verify by personal contact the current physical status and continuing eligibility for compensation of every claimant, and the Navy has not devoted the resources to do it either. To put it bluntly, many people on the rolls have been forgotten. When costs were low and were paid centrally in Navy, no Command or activity needed to pay close attention. Now that costs are rising and are being charged back to individual activities, you have both a reason and the information required to reduce long-term compensation costs.

You must provide sufficient resources to review the quarterly compensation rolls provided to your civilian personnel office. You must ensure adequate staff to conduct a meaningful review. This may include additional staff support for the Injury Compensation Program Administrator (ICPA), investigators, in-house or contract medical support, and computer assistance depending on the number of claimants on the rolls. The OWCP will work with you, but you must take the lead.

Your primary effort must be to identify potential candidates for return to work. This review should begin with current employees and updating of medical information. Next, the compensation rolls should be reviewed with OWCP to update medical information of candidates identified for possible return to work. Your ICPA knows how to conduct this review, but must have support to proceed.

When such candidates are identified, medical information on work restrictions must be updated and a suitable job must be found or created. OWCP and the medical provider must concur that the job is suitable. Your leadership will be needed to have your managers identify or create appropriate jobs. The job offer must be made properly, and the claimant may accept, may choose to retire, or will either be removed from the rolls or have compensation reduced. Failure to respond to a job offer may also be a cause for removal from the rolls.

Any cases which do not belong to your activity must of course be identified and transferred to the correct activity.

Experience shows these efforts pay off. The U. S. Postal Service succeeded in bringing back to work 500 of the 1,300 employees on their compensation rolls in 1984 as a result of an intensive effort to identify candidates for rehabilitation and reemployment. They estimate that nearly 50 percent of their people on long-term compensation rolls can be brought back to some type of productive work by continuation of this effort. The Department of the Navy piloted the Helping Injured Reemployable Employees (HIRE) return to work program in 1988-89 at selected sites. An estimated 250 job offers were made. A significant number accepted reemployment. Of those who refused, some were eligible to retire and did so, while others had their compensation reduced or eliminated.

Aggressive management of new claims

Aggressive management of new claims can accelerate return to work, reduce continuation of pay (COP) costs, reduce the number of new claimants placed on long term compensation rolls, and possibly reduce the number of future claims. This type of management requires your leadership and good teamwork among managers and supervisors, the OSH manager, the ICPA, medical personnel, and the OWCP.

Your actions will produce an impact in several areas:

- a. Care of the injured employee;
- b. Claims processing;
- c. Coordination with medical provider;
- d. Controversion;
- e. Identification of fraud and abuse; and
6. Light duty program.

Let's look at each of these areas.

Care of the injured employee is the first duty of the supervisor. He or she must authorize medical care and see that the injured worker is taken to the medical provider of the worker's choice. The supervisor should assure the employee and the medical provider that light duty work is immediately available. Continuing contact should be maintained with the employee to provide necessary assistance and to determine status

of recovery, and with the medical provider to determine progress of recovery and likely length of rehabilitation. Care and recovery of the employee should be your first priority.

Claims processing should be managed in a timely fashion. There are numerous deadlines for submission of forms. It is very important that the facts surrounding the injury be verified and accurately reported at the start, since both entitlement to COP and subsequent OWCP compensation decisions will depend on the reported facts. Your expectations need to be communicated to your management team.

Coordination with the medical provider is important not only to management of an individual claim but also to management of future claims. Local medical providers must be advised of the activity's commitment to making an injured worker whole. Unless local physicians know the nature of the work, know that light duty is available, and know that the activity is concerned and cooperative, they may find employees unfit for any duty and, in effect, place employees on COP when it is not really necessary. Compensation continues as long as the medical evidence shows that total or partial disability is related to the accepted injury or condition.

Some Navy Commands and activities send letters to local physicians advising that light duty is available. Some provide information as to the job's physical requirements and light duty physical requirements at the time an injured employee is first treated. Some invite the local major medical providers to visit the activity to see for themselves what conditions prevail. Some make presentations at local hospitals or medical association meetings to talk about the activity and its efforts to provide limited or light duty assignments to injured employees. These techniques can reduce continuation of pay costs.

You should assure that your team builds good relationships with the medical providers in your community.

Controversion of a claim means to dispute, challenge or deny the validity of a claim. A Command or activity which decides to controvert a claim must provide objective evidence to OWCP that an employee's claim for compensation under FECA is invalid. This is done at the time the claim is first filed, and must be done in accordance with the Federal Personnel Manual, Chapter 810. The OWCP has final authority to decide whether the claim is valid. The decision affects eligibility for both continuation of pay and subsequent compensation benefits. Evidence includes such things as witness statements, pictures, accident investigation reports, time cards, travel orders, and employment documents.

To be valid, the claim must be filed within statutory time limit requirements of the FECA, the injured or deceased person must have been an employee within the meaning of the FECA, the employee must have sustained an injury or disease, the employee must have been in the performance of duty when the injury occurred, and the condition found must have resulted from the injury or have been produced by the work environment. The entire management team should know the bases for controversion of a claim for injury. They are:

- a. The disability is a result of occupational disease or illness. (COP is paid only for traumatic injuries.)
- b. The injury occurred off the employing activity's premises and the employee was not involved in official off-premise duties.
- c. The injury was caused by the employee's willful misconduct.
- d. The employee intended to bring about the injury or death of himself or another person.
- e. The employee's intoxication was the proximate cause of the injury.
- f. The injury was not reported by the employee on form CA-1 within 30 days following the injury.
- g. Work stoppage first occurred 90 days or more following the injury (for injuries on or after June 1, 1987).
- h. The employee initially reported the injury after his or her employment had terminated.
- i. The illness or disease was not caused or aggravated by the employment.

Supervisors should review injury reports to assure that facts have been established and documented, and that questionable claims are controverted. In order to be successful, well documented, credible information must be provided to OWCP. There may be a deterrent effect if employees know that questionable claims are controverted, even if OWCP does not agree with every Command or activity controversion.

Identification of fraud and abuse is a small but important part of your program management responsibilities. There are penalties of up to \$10,000 and 10 years in jail for employees' filing of false claims (perjury or conspiracy to commit fraud (18 USC 1920)), and penalties of up to \$500 and 1 year in jail

for supervisory failure, neglect, or refusal to file reports, falsification of reports, or interference with an employee's filing of a claim (18 USC 1922). Your role is to identify questionable claims and submit the evidence to OWCP for evaluation.

Your cost containment committee may discover a high concentration of claims in a given shop or department, or a high number of claims by a few individuals. Both of these situations should be investigated. In some instances supervisors may be using the FECA Program to get rid of problem employees, a questionable and expensive management practice. In other cases employees may be exaggerating the seriousness of injuries or serving as witnesses for each other.

Other signs of possible fraud are: the employee has told different people different stories about the injury; the employee reported to work with the injury; the employee waited a long time to report the injury and in the meantime carried out normal job functions; the employee is not at work but is observed conducting activities inconsistent with medical limitations; the employee was receiving the same medical treatment prior to the injury and there is no evidence the condition was aggravated; there are no witnesses and the location of the injury's occurrence is questionable.

Beware of abusive attitudes which interfere with proper management of the program. For example, "Most injured workers would rather receive compensation than return to work." "Injured workers were never good performers." Such attitudes should be rooted out; they are unfair to individual employees and make it more difficult to get support for rehiring efforts. A performance problem should be handled as a performance problem, not an injury compensation case.

A light duty program is key to all other efforts. Your ability to make light duty or "transitional" work available to accommodate work restrictions of injured employees is the most critical component of FECA program management. Your employees should be aware that transitional work is available during the recovery process and that everyone is expected to report for duty unless disabled for all work activities. It is good business and cost-effective to make any kind of reasonable adjustment to keep employees on the job. Let them know you need them and will take care of them while they are recovering. Let medical providers know you will provide work within identified limitations. That is your management decision. The medical providers only identify the limitations.

Your staffing specialists, the Handicapped Program Coordinator and position classifiers have considerable experience in restructuring jobs for light duty. It can be done. Set up an activity-wide cooperative system to identify and reserve such jobs. Work with the OWCP rehabilitation counselors to tailor assignments for individuals.

The real difficulties in providing light duty assignments are three: cost pressures, production pressures, and negative supervisory attitudes toward rehiring injured workers.

You can, in consultation with your comptroller and civilian personnel officer, alleviate some of the cost and production pressures by increasing Manage-to-Payroll authority or establishing a separate pool of central funds for light duty positions to be funded for a period of time from compensation fund savings; identifying positions in other departments which could be used as light duty assignments; and publicizing accomplishments of workers successfully reemployed from the compensation rolls.

Changing negative attitudes to positive ones requires your leadership and successful experiences with rehired workers. Make clear your policy on reemployment and the legal requirement to reemploy within a year after the date of injury. Work closely with your team to assure that persons on the rolls are selected when an appropriate vacancy occurs, and publicize success stories. There are intrinsic rewards for treating employees fairly as well as the rewards of productive work in place of nonproductive compensation costs.

Training

Training is a critical element of the FECA Program. You must spend training dollars to save compensation dollars. Adequate training of FECA staff in claims processing review is mandatory. Management officials must also be trained to focus their views toward reemployment of injured employees and FECA cost reductions. Safety and injury prevention classes/sessions should be held routinely. Without adequate training in these areas and strong supervisory/managerial involvement, cost containment and cost reduction will not occur. An effective FECA Program is the responsibility of all employees.

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